

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

JOSEPH E. JURKENAS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	1:20-cv-00183-JDL
)	
CITY OF BREWER, et al.,)	
)	
)	
Defendants.)	

ORDER REMANDING TO THE MAGISTRATE JUDGE

The amended complaint of Joseph E. and Patricia M. Jurkenas and the Estate of Marie L. Pozniak against the City of Brewer and two city employees asserts various claims arising from the apparent condemnation of, and their removal from, their property (ECF Nos. 1, 6). After United States Magistrate Judge John C. Nivison granted the Jurkenases’s motion to proceed *in forma pauperis* (ECF Nos. 2-3), the Magistrate Judge conducted a preliminary review of the complaint pursuant to 28 U.S.C.A. § 1915(e)(2) (West 2020). On July 23, 2020, the Magistrate Judge filed a Report and Recommendation with the Court, recommending that the Court “dismiss Plaintiffs’ claims other than their claim that the defendants deprived them of their property under color of state law.” ECF No. 9 at 1; *see* Fed. R. Civ. P. 72(b). The Jurkenases object to the Report and Recommendation and seek leave to amend their complaint to add a claim for wrongful death. ECF No. 10 at 1, 12. They also request that the Court “clarify” the Magistrate Judge’s Recommendation. ECF No. 10 at 1.

On September 8, 2020, before the Court acted on the Magistrate Judge's Recommended Decision and the Plaintiffs' objections to it, the Defendants filed a motion to dismiss the complaint in its entirety (ECF No. 16), asserting procedural deficiencies and raising substantive defenses to the complaint, including defenses to the claim that the Magistrate Judge recommended be allowed to proceed.

With the preceding procedural history in mind, it is **ORDERED** that a ruling on the Report and Recommendation of the Magistrate Judge (ECF No. 9) is **DEFERRED**, and the matter is remanded to the Magistrate Judge for consideration of the Plaintiffs' objections and request for leave to amend (ECF No. 10) and the Defendants' Motion to Dismiss (ECF No. 16).

SO ORDERED.

Dated this 15th day of September, 2020.

/s/ Jon D. Levy
CHIEF U.S. DISTRICT JUDGE